



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

863670001

February 11, 2003

VIA FACSIMILE
CERTIFIED MAIL- RETURN RECEIPT REQUESTED

Raymond M. Brown, Esq.
Brown & Brown
1 Gateway
Newark, NJ 07102

RE: Diamond Alkali Superfund Site
City of Newark's Response to Request for Information Pursuant to 42 U.S.C. 9604(e)

Dear Mr. Brown:

The United States Environmental Protection Agency (EPA) is in receipt of the City of Newark's (City) partial response dated October 18, 2002 to EPA's Request for Information issued on May 21, 2002 and re-issued on July 3, 2002. I have left several messages as recently as last week and I wrote to you in November 2002 requesting the opportunity to discuss the City's response, specifically its claim of confidentiality in further detail but to date I have been unable to reach you.

The City's response to EPA's Request for Information included CSO Monitoring and Modeling workplans and flow data for various CSO points that have previously been submitted to NJDEP. The City indicated that its response was confidential in nature and requested that it not be disclosed to anyone outside of EPA, however, the City failed to provide any details that would substantiate a claim of confidentiality. As noted in Attachment A (Instructions for Responding to Request for Information) of EPA's Request for Information, all claims of confidentiality must be proven and are subject to EPA verification. The City has not provided a basis to designate this information confidential and EPA has not determined that this information would be subject to confidential treatment. Consequently, EPA will not designate the response as confidential unless the City provides appropriate substantiation that would support a claim of confidentiality. If the City intends to provide substantiation, it must do so within 15 days of receipt of this letter. If EPA does not hear from the City within that timeframe, the City's claim of confidentiality will be deemed waived and the response may be made available to the public without further notice to the City.

Please be advised that the City's October 18th response was only partially complete and EPA is awaiting the rest of the submission as it becomes available.

If you have any questions, I can be reached at (212) 637-3106.

Sincerely,

Kedari Reddy

Kedari Reddy
Assistant Regional Counsel

cc: R. Winfield, ERRD ✓

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